IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

No. 82-963

COMMONWEALTH OF MASSACHUSETTS,
Petitioner

v.

OSBORNE SHEPPARD,
Respondent

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On Writ of Certiorari to the
Supreme Judicial Court of Massachusetts

MOTION TO STRIKE THE BRIEF OF THE ILLINOIS STATE BAR ASSOCIATION AS AMICUS CURIAE IN SUPPORT OF RESPONDENT

Osborne Sheppard, the respondent in the above entitled case, hereby moves the Court to strike the brief of the Illinois State Bar Association as Amicus Curiae in support of the respondent for failure to comply with the requirements of Rule 36.2.

Rule 36.2 requires that a brief of an amicus curiae must be filed "within the time allowed for the filing of the brief of the party supported and if in support of neither party, within the time allowed for filing appellant's or petitioner's brief." The Brief of the Illinois State Bar Association as amicus curiae supports the position of the petitioner, the Commonwealth of Massachusetts, rather than the position of the respondent. See Brief of the Illinois State Bar Association at 18-20; Brief for the Petitioner at 28-32. However, the amicus brief was not filed within the time allowed for the filing

of the brief of the petitioner and was not served on counsel for the respondent until after the respondent's brief had been filed. As a result of the late filing of the brief, the respondent had no notice of the arguments made by amicus and no opportunity to respond to them.

By his attorney,

John Reinstein
Civil Liberties Union of Massachusetts
47 Winter Street
Boston, Massachusetts 02108
(617) 482-3170

Nancy Gertner
Silverglate, Gertner, Baker & Fine
88 Broad Street
Boston, Massachusetts 02110
(617) 542-6663

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing motion to strike the Brief of the Illinois State Bar Association as Amicus Curiae in Support of Respondent by mailing a copy thereof by first class mail to the following counsel of record:

Barbara A.H. Smith
Assistant Attorney General
One Ashburton Place
Boston, MA 02108

Joshua Sachs
127 No. Dearborn
Chicago, IL 60602

John Reinstein

December 9, 1983